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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,592	12/21/2000	Henry B. Strub	10257/7	1020

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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/746,592

Applicant(s)

STRUB ET AL.

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 17-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 12, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 6. 6) ☐ Other:

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### DETAILED ACTION

In response to the election filed 10/28/2002 claims 1-26 are pending.

#### *Election/Restrictions*

1. Applicant's election of Group II claims 11-16 in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). The election requirement is deemed proper and therefore made **FINAL**.

2. Claims 1-10 and 17-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in Paper No. 9.

#### *Information Disclosure Statement*

3. The information disclosure statement filed 12/06/2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it fails to comply with 37 CFR 1.98 (b)(2). It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 5788508). Regarding claim 11, Lee et teaches a method for monitoring and managing student activities in a course including the steps of: receiving a completed student assignment in electronic form; associating the completed student assignment with n instructor and storing the completed student assignment in a database (col. 5: 4-9); generating a gradebook for the instructor displaying grade information for each of a plurality of students in a course section taught by the instructor, wherein the gradebook comprises student identification information, grade information for any graded student assignments (Figure 16). Lee et al teaches a link to "ungraded homework" in Figure 6, through the "check homework" button. Although this feature is not taught to be within the gradebook, it would be obvious to one of ordinary skill in the art that the location of an option is merely a matter of design choice.

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Regarding claim 14, The gradebook comprising displaying the grade information in graphical format, wherein on of a predetermined set of graphical elements, each of the graphical elements representing a particular student performance level is displayed for each graded assignment is taught in Figure 16 by the various shading options shown within the graph. Regarding claim 15, the actual number in each block, as shown in Figure 16, represents the use of indicia.

### ***Allowable Subject Matter***

8. Claims 12, 13 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Helmick et al (US 6470171 b1) teaches a system and method for the management of online courses. Includes a gradebook feature.
- b. Remschel (US 6411796 b1) teaches an educational management system including a gradebook, and the ability for a teacher to grade homework at a later time
- c. Lee et al (US 6064856) a member of the patent series
- d. Ziv-EI (US 6302698 B1) teaches an educational system including a gradebook
- e. Daniels et al (US 5310349) teaches an educational management system including a gradebook
- f. George et al (US 5987648) teaches a system where a teacher may review student work on-line. Including the ability for the teacher to comment on student presentations they are guarding

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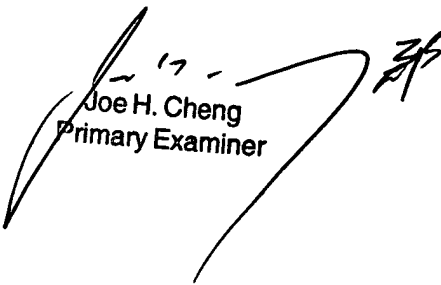
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Kathleen M. Christman  
Patent Examiner  
December 9, 2002



Joe H. Cheng  
Primary Examiner